

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

SHAWN JOSEPH,

Plaintiff,

vs.

Civil Action No. 1:22-cv-00615-RP

GENESIS COIN, INC.; GENESIS  
SERVICES, INC.; AQUARIUS  
MANAGEMENT CORP.; and EVAN  
ROSE,

Defendants.

**PLAINTIFF SHAWN JOSEPH'S UNOPPOSED MOTION  
FOR EXTENSION OF TIME TO RESPOND TO COUNTERCLAIM**

Defendants both removed this case to federal court and filed a counterclaim on June 23, 2022. Under the FRCP, Plaintiff Shawn Joseph's responsive pleading to the counterclaim is due by July 14, 2022. However, this Court lacks subject matter jurisdiction—no federal question appears on the face of Mr. Joseph's Petition/Complaint, and there are Texas citizens on both sides of the dispute. Accordingly, Mr. Joseph intends to bring a motion to remand to state court as promptly as possible, by no later than the statutory deadline (here, July 25). Meanwhile, Mr. Joseph should not have to respond to the counterclaim in a court without jurisdiction. Therefore, the Court should enter the attached proposed order extending Mr. Joseph's time to respond to Defendants' counterclaim until fourteen (14) days after the date the Court rules on Mr. Joseph's forthcoming remand motion or otherwise determines its jurisdiction.

PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO RESPOND TO COUNTERCLAIM

### **I. CONFERENCE OF COUNSEL**

Pursuant to Local Civil Rule CV-7(g), prior to filing this motion, counsel for Mr. Joseph conferred with counsel for Defendants regarding the relief sought herein. Counsel for Defendants stated that Defendants “have no objection to Mr. Joseph seeking an extension to file his Answer until such time that Mr. Joseph’s remand motion is ruled upon or this issue is otherwise resolved.”

### **II. RELEVANT BACKGROUND**

**Procedural History:** On May 19, 2022, Mr. Joseph filed a Petition against Defendants in Texas state court, the 201st District Court of Travis County, alleging breach of contract, fraud, and unlawful retaliation, among other claims. *See* Dkt. No. 1-3. On June 23, 2022, Defendants removed to federal court, asserting diversity of citizenship as the purported basis for federal jurisdiction. Dkt. No. 1, at 2-9. The same day, Defendants filed an Answer to Mr. Joseph’s state court Petition and asserted a single counterclaim. Dkt. No. 2.

**Upcoming Deadlines:** The statutory deadline for Mr. Joseph to file a motion to remand to state court following removal is July 25, 2022. *See* 28 U.S.C. § 1447(c). The FRCP deadline for Mr. Joseph to file an Answer or other responsive pleading to Defendants’ counterclaim is currently July 14, 2022. *See* Fed. R. Civ. P. 12(a)(1)(B).

### **III. RELIEF SOUGHT**

In this motion, Mr. Joseph seeks only relief from his upcoming July 14 deadline under the FRCP to respond to Defendants’ counterclaim, until after the Court has determined its jurisdiction. Counsel for Defendants have advised that they do not oppose an extension of Mr. Joseph’s time to respond until fourteen (14) days after “such time that Mr. Joseph’s remand motion is ruled upon or this issue is otherwise resolved.”

#### IV. CONCLUSION

For the foregoing reasons, Mr. Joseph respectfully requests that the Court enter the attached proposed order extending Mr. Joseph's time to respond to Defendants' counterclaim until fourteen (14) days after the Court has ruled on Mr. Joseph's forthcoming motion to remand to state court or otherwise determined its jurisdiction.

DATED: July 8, 2022

By: /s/ William M. Odom

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of July, 2022, I electronically filed the foregoing and attachments with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following counsel of record for Defendants:

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/s/ William M. Odom  
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